

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SAGE HUMPHRIES, GINA MENICHINO,
ROSEMARIE DeANGELO, DANIELLE
GUTIERREZ, JANE DOE 100, JULIET
DOHERTY, and JANE DOE 200

Case No. 2:21-cv-01412-ART-EJY

ORDER

Plaintiffs,

v.

MITCHELL TAYLOR BUTTON and DUSTY
BUTTON,

Defendants.

Pending before the Court is Defendants' Motion and Request for a Second Deposition to Depose Sage Humphries about Daryl Katz ("Katz" or "Mr. Katz"). ECF No. 481. The Court reviewed the Motion, Opposition (ECF No. 487), and Reply (ECF No. 492).

In their Motion, Defendants quote a colloquy from an April 5, 2023 hearing in which the Court found deposition inquiries regarding any alleged relationship between Mr. Katz and Ms. Humphries (or any Plaintiff) impermissible. ECF No. 481 at 2; *see also* ECF No. 163 at 50. Defendants nevertheless argue they filed a lawsuit against Mr. Katz in the Southern District of California and Ms. Humphries is listed as a defense witness in that case. *Id.* at 2-3. Defendants proffer that cross motions for summary judgment were filed in the matter pending against Mr. Katz. *Id.* at 3. Defendants conclude Ms. Humphries' testimony is relevant to the case against Katz as well as to the instant litigation. *Id.* Plaintiffs counter Defendants' Motion explaining discovery is closed in this matter, reopening discovery would be highly prejudicial, and the information sought is not relevant to or inadmissible in the case at bar. ECF No. 487.

In addition to the above arguments, the Court notes that Federal Rule of Civil Procedure 56(d) provides Defendants with an avenue to seek discovery despite the filing of a motion for summary judgment. However, to warrant discovery under this Rule the nonmovant must "show by

1 affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its
2 opposition” *Id.*

3 Here, Defendants’ Motion fails to address Rule 56(d) and further fails to demonstrate good
4 cause to reopen discovery in this matter at this late date. *Schumer v. Hughes Aircraft Co.*, 63 F.3d
5 1512, 1526 (9th Cir. 1995). Indeed, discovery closed on September 29, 2023 (ECF No. 286-3).
6 While discovery was reopened on June 17, 2024, the purposes was limited to allowing Defendants
7 to complete the deposition of Jane Doe 1. ECF No. 362. Discovery remained closed for all other
8 purposes. *Id.* Defendants also do not comply with United States District Court for the District of
9 Nevada Local Rule 26-3 requiring a request to reset a deadline made after the expiration of that
10 deadline to be supported by a showing of excusable neglect.

11 The filing of a complaint against Mr. Katz in the U.S. District Court for the Southern District
12 of California may demonstrate a reason to take Ms. Humphries deposition in that case (albeit
13 Defendants do not provide that reason—only a conclusion). Defendants offer nothing about that
14 separate lawsuit demonstrating a basis to reopen discovery in this case. ECF No. 481. Defendants’
15 Reply repeats arguments previously made before the Court regarding Ms. Humphries and Mr. Katz
16 (*compare* ECF Nos. 492 and 163 at 19-20, 26-29, 35); nonetheless, Mr. Katz was voluntarily
17 dismissed by Defendants from this lawsuit in August 2022 (ECF No. 64). Ms. Humphries’
18 relationship with Mr. Katz and his alleged influence over this case was considered and rejected by
19 the Court as insufficient to allow inquiry at deposition into Ms. Humphries’ relationship with Katz.
20 ECF No. 163 at 49 (“under Rule 412(a) of the Federal Rules of Evidence, generally, evidence
21 regarding a victim’s sexual relationships with other people, sexual behavior, sexual predisposition
22 is inadmissible, meaning it cannot be admissible in a civil proceeding.”). The Court further
23 explained that if there was a separate lawsuit against Mr. Katz, Defendants would have to seek
24 information regarding Katz in that case. *Id.* at 52.

25 Finally, Motions for Summary Judgment were filed in this case by Plaintiffs and Defendants
26 in January 2025. ECF No. 437, 443. This matter commenced in July 2021. ECF No. 1. Reopening
27 discovery would result in substantial additional delay, which is not justified based on Defendants’
28 proffer of what they seek to learn.

1 Accordingly, and based on the foregoing, IT IS HEREBY ORDERED that Defendants'
2 Motion and Request for a Second Deposition to Depose Sage Humphries (ECF No. 481) is DENIED.

3 DATED this 20th day of March, 2025.

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5 ELAYNA J. YOUCHAH
6 UNITED STATES MAGISTRATE JUDGEp
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